

Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA

UNITED STATES OF AMERICA,)	No. CR18-05579RBL
)	
Plaintiff,)	MOTION TO MODIFY RELEASE
)	CONDITIONS
vs.)	ORAL ARGUMENT REQUESTED
)	
MICHAEL SCOTT,)	
)	
Defendant.)	

I.

MOTION

COMES NOW the Defendant, MICHAEL SCOTT, by and through counsel, AMY I. MUTH, and moves this Court for an ORDER as follows:

DELETE: The defendant shall participate in the location monitoring program with Active Global Positioning Satellite technology. The defendant shall comply with a curfew as by the location monitoring specialist. The defendant shall abide by all program requirements, and must contribute towards the costs of the services, to the extent financially able, as determined by the location monitoring specialist.

ADD: The defendant shall comply with Stand Alone Monitoring component of Location Monitoring Program. The defendant will be monitored by Active Global Positioning Satellite technology which shall be utilized for purposes of verifying compliance with any court imposed condition of supervision. The defendant shall abide by all program requirements, and must contribute towards the costs of the services, to the extent financially able, as determined by the location monitoring specialist.

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II.

POSITION OF PROBATION AND GOVERNMENT

Probation supports this request; the government opposes it.

III.

ARGUMENT

Mr. Scott has been released on bond since December 12, 2018. Dkt. #178. This Court has taken action twice on this case at Probation's request based on Mr. Scott's violations of his release conditions. Probation first contacted the Court on July 22, 2019, notifying that Mr. Scott violated his release conditions by consuming alcohol on three occasions. Dkt. #726. At that time, Mr. Scott had been placed on stand alone monitoring, and this Court ordered, at Probation's request, that Mr. Scott's monitoring be increased to location monitoring. *Id.* Then, on September 11, 2019, Probation notified the Court that Mr. Scott had used cocaine, and asked that the Court endorse the actions Probation took, namely, a reprimand, increased frequency of testing, and continued participation in substance abuse treatment, which the Court did. Dkt. #800. Probation supports Mr. Scott's request to modify his release conditions to reduce his monitoring level to stand alone monitoring.

Mr. Scott has been diagnosed with a substance abuse disorder and PTSD. He currently receives services through the VA. He has regularly participated in substance abuse counseling and individual counseling for PTSD since his release from custody. He has made strong progress and remains committed to therapy.

Mr. Scott requests this modification so that he can spend more time with his family before his sentencing date. His wife (and co-defendant) Esther Scott and their three children have moved to Shelton in anticipation of Mr. Scott's potential incarceration. Mr. Scott still lives

1 in Snohomish. It takes approximately three hours for Mr. Scott each way to drive to see his
2 family. His children are registered in sports and no longer able to visit him in Snohomish on the
3 weekends because of those obligations. Because of the travel time, it is nearly impossible for
4 Mr. Scott to visit them after they are home from school and then return to Snohomish to make
5 his curfew.

6 Mr. Scott has pled to an offense that carries a five year mandatory minimum sentence.
7 While he is requesting safety valve, there is no guarantee it will be awarded to him, and in any
8 event, it is anticipated that he will serve a prison sentence. This is likely to be the last holiday
9 season for Mr. Scott with his family for some time.

10 To avoid a relapse into depression and potential substance use, it is important that Mr.
11 Scott have the ability to spend time with his family prior to his sentencing date. That social
12 structure is extremely important. Providing that support will help him manage the stress of the
13 upcoming sentencing in a healthy, prosocial way.

14 U.S. Probation is in the best position to assess the suitability of this reduction to stand
15 alone monitoring because they have the specialized expertise in monitoring people in addiction
16 and attending treatment for mental health issues, and they have regular contact with them. Mr.
17 Scott respectfully requests that this Court follow the recommendation of Probation and modify
18 his release conditions to strike the location monitoring requirement and allow for stand alone
19 monitoring instead.
20

21 **IV.**

22 **CONCLUSION**

23 For the foregoing reasons, Mr. Scott respectfully requests this Court sign the proposed
24 Order modifying Mr. Scott's release conditions.
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1 Respectfully submitted this 16th day of December, 2019.

2 s/ Amy I. Muth

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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the United States of America and any counsel of record for the co-defendant(s).

s/ Amy I. Muth

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